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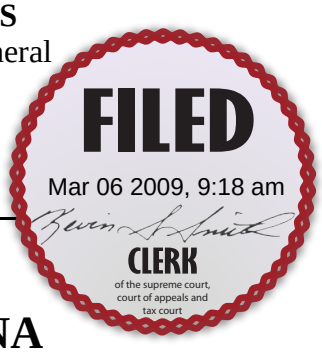

IN THE COURT OF APPEALS OF INDIANA

SANDRA NEUKAM,	)	
	)	
Appellant/Defendant,	)	
	)	
vs.	)	No. 90A05-0808-CR-475
	)	
STATE OF INDIANA,	)	
	)	
Appellee/Plaintiff.	)	

APPEAL FROM THE WELLS CIRCUIT COURT
The Honorable David L. Hanselman, Sr., Judge
Cause No. 90C01-0508-FD-76

March 6, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Sandra Neukam appeals from the eighteen-month sentence imposed following her plea of guilty but mentally ill to Class D felony Theft,[1] contending that it is not appropriate in light of the nature of her offense and her character. We affirm.

FACTS

On May 28, 2005, Neukam removed some items from a Fashion Bug store in Wells County and hung them on a rack on the sidewalk outside the store. Neukam walked behind the store, retrieved her automobile, reappeared, removed the items from the rack, placed them into her automobile, and drove off.

On August 10, 2005, the State charged Neukam with Class D felony theft. On March 14, 2006, Neukam pled guilty but mentally ill as charged. On July 21, 2008, the trial court sentenced Neukam to eighteen months of incarceration. The trial court found, as mitigating circumstances, that Neukam's theft neither caused nor threatened serious harm to persons or property or that Neukam did not contemplate that it would do so and that she had or was going to pay restitution. The trial court found Neukam's criminal history to be an aggravating circumstance.

DISCUSSION AND DECISION

We "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Ind. Appellate Rule 7(B). "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing

[1] Ind. Code §. 35-43-4-2(a) (2004).

decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Shouse v. State*, 849 N.E.2d 650, 660 (Ind. Ct. App. 2006), *trans. denied* (citations and quotation marks omitted).

We do not find the nature of Neukam's offense to be particularly egregious. The record indicates that the items taken from the Fashion Bug were worth $109.08. Neukam's character is another matter, and is that of a long-time criminal who has not chosen to conform her behavior to societal norms. Neukam, who was fifty years old when she committed this theft, has a lengthy history of mostly similar crimes. Beginning in 1976, Neukam has five prior convictions for criminal conversion, five for theft, driving while privileges are suspended, operating a vehicle without financial responsibility, shoplifting, possession of marijuana, and Class C felony burglary. Additionally, Neukam has been found to have violated the terms of probation four times and was on probation when she committed the instant crime. Despite her frequent contacts with the criminal justice system, Neukam has not reformed herself.

While we acknowledge Neukam's long history of mental illness, she has failed to establish that it warrants a reduction in her sentence. When we consider the weight, if any, to be given to mental illness in sentencing, we keep several factors in mind. "These factors include: (1) the extent of the defendant's inability to control his or her behavior due to the disorder or impairment; (2) overall limitations on functioning; (3) the duration of the mental illness; and (4) the extent of any nexus between the disorder or impairment and the commission of the crime." *Biehl v. State*, 738 N.E.2d 337, 340 (Ind. Ct. App. 2000). Here, Neukam's somewhat incoherent statements at sentencing and letters to the

trial court do suggest some limitations on function, but not necessarily any inability to control her behavior. Neukam was apparently first diagnosed with depression at fifteen years old, so her mental illness seems to be long-standing. Still, the only indication that there is any nexus between Neukam's mental illness and her crime is her self-serving statements to the effect that "I end up in trouble with the law and I don't remember what I did[,]" which the trial court was free to disbelieve. Defendant's Ex. A p. 2. Given Neukam's extensive criminal history and the lack of an obvious connection between her mental illness and her crime, we cannot conclude that her eighteen-month advisory sentence for Class D felony theft is inappropriate.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and MAY, J., concur.